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C O N F I D E N T I A L SECTION 01 OF 02 ISLAMABAD 001772

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SUBJECT: COMMITTEE ON JUDGES INCHES FORWARD

REF: ISLAMABAD 1756

Classified By: Acting DCM Candace Putnam, Reasons 1.4 (b), (d)

¶1. (C) Summary: Senior attorneys charged by the political parties with drafting a resolution to restore the pre-November 3 judiciary continue to bicker, and some committee members have already quit. On the table is a resolution that labels the November 3 firing of the judges as illegal and allows the deposed judges to be reinstated immediately by an executive order. The lawyers' movement, viewing this process as a "stall tactic," will wait until May 16 to announce its plans to try to force the former judges back on the bench. End summary.

Committee Members Jumping Ship

¶2. (C) PolOff met May 6 with Athar Minallah, attorney for former Supreme Court Chief Justice Iftikhar Chaudhry, to discuss the status of the resolution intended to restore the pre-November 3 judges to the bench. An ad hoc committee of nationally-respected, senior attorneys, chaired by Law Minister Farooq Naek, is drafting the resolution. Pakistan Muslim League-N (PML-N) leader Nawaz Sharif announced May 2 the composition of this committee (reftel). The committee met May 5 and again late May 6.

¶3. (C) Minallah is not a member of the committee but is a close associate of Ahsan. Minallah reported that the committee's first meeting on May 5 was rancorous. According to Minallah, Hafiz Pirzada -- one of the "Fathers of the 1973 Constitution" who has previously represented President Pervez Musharraf in controversial court cases -- argued to his committee colleagues that only a constitutional amendments package could reinstate the judges and reverse Musharraf's November 3 actions.

¶4. (C) PML-N senior Minister Nisar Ali Khan told Ambassador May 7 that the coalition was "tottering" over the judges issue. He hoped the Pakistan People's Party (PPP) and PML-N could find a way to work together "in the medium term, if not the long term." Khan said he had approached Pirzada, who had started to cooperate and was actually a conduit to Musharraf to reassure him that the resolution would not personally target the president.

¶5. (C) Minallah revealed that Pirzada's "overbearing manner" caused former Attorney General Fakruddin Ebrahim to resign from the committee. Ebrahim confidants had leaked that a "senior attorney" was disrupting the committee's progress. Ahsan spoke to Ebrahim midday May 6 and, according to

Minallah, talked Ebrahim into returning, but then, according to press reports, Ebrahim did not show up to the committee meeting yesterday evening. Ebrahim confirmed separately to PolOff May 7 that he will not return to the committee, viewing the exercise as a gimmick by the political parties.

Aitzaz' Angle

¶6. (C) Asked why Aitzaz Ahsan even agreed to join this committee, Minallah claimed Ahsan was not informed prior to Nawaz announcing his name on live television May 2. Several other committee members were similarly surprised. "Aitzaz could not then refuse," Minallah added. However, according to Minallah, Ahsan would only contribute to the committee, not negotiate with the committee members.

¶7. (C) Minallah doubted Ahsan would stay on the committee for long. Instead, Ahsan was expected to present his proposed draft resolution to the committee on May 6 and then, said Minallah, he would step back to see what the political parties did with it. "This draft amounts to his final, legal opinion," Minallah insisted.

¶8. (C) On May 7, Interior Minister Rehman Malik told Ambassador that he had met with Ahsan on the judges issue. Using the fact that the PPP had agreed to let Ahsan run on the party's slate in the upcoming by-elections, Malik told Ahsan the party expected cooperation in return. Malik suggested a formula whereby there is a resolution and all the judges return; however, Chaudhry would return and retire two

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hours later. Ahsan apparently did not agree, but did smile at the prospect of returning to the PPP fold.

¶9. (C) The lawyers' movement still did not have a "contingency plan" if the deposed judges were kept off the bench much longer, Minallah revealed. They were willing to give the political parties "a few more days beyond the new May 12 deadline." But the Pakistan Bar Council would meet May 16 to decide on its reaction if this deadline passed.

¶10. (C) Unlike previous meetings with PolOff, Minallah was now convinced that the judges would not be reinstated and that the lawyers' movement would have to react. He added, "this is clearly a stall tactic," not mentioning who was stalling or why. "The resolution is easy though," arguing that there was no legitimate excuse for more discussions at the committee level or by the political party leaders. Minallah also continued to warn that the Pakistan public blamed the U.S. for this delay; he did not hold this common view, Minallah assured PolOff, but he was in the minority.

The Resolution

¶11. (C) According to Minallah, Ahsan's draft resolution to the committee is reportedly short, about one and a half pages long. Minallah said the resolution states that the events of November 3 were illegal. Therefore, the former judges still retain their seats, and an executive order can immediately restore them to the bench. The current version of the resolution, however, does not mention Musharraf by name, added Minallah; Ebrahim separately confirmed this. Minallah warned that the lawyers' movement expects such an executive order on the same day the resolution is passed, i.e., o/a May ¶12.

¶12. (C) Comment: It is uncertain how far this resolution will get by the new May 12 deadline. Both Zardari and Nawaz will be in London for a few days. As long as there is no public outcry, neither is in any rush, preferring to stay in power as a coalition; the lawyers' movement is just now figuring this out. End comment.

